

RENE L. VALLADARES  
Federal Public Defender  
State Bar No. 11479  
SHARI L. KAUFMAN  
Assistant Federal Public Defender  
411 E. Bonneville Avenue, Suite 250  
Las Vegas, Nevada 89101  
(702) 388-6577  
(Fax) 388-6261

Attorneys for Andre Nestor

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN KANE and  
ANDRE NESTOR.

## Defendants.

:11-cr-022-MMD-GWF

**STIPULATION TO CONTINUE TRIAL DATES**

### (Ninth Request)

IT IS HEREBY STIPULATED AND AGREED, by and between Daniel G. Bogden, United States Attorney, and Daniel Schiess, Assistant United States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public Defender, and Shari L. Kaufman, Assistant Federal Public Defender, counsel for ANDRE NESTOR, and Andrew M. Leavitt, Esq., counsel for John Kane, that the calendar call currently scheduled for August 12, 2013 at the hour of 1:00 p.m, and the trial currently scheduled for August 20, 2013 at the hour of 9:00 a.m, be vacated and set to a time and date convenient to this court. However, in no event earlier than ninety (90) days.

This Stipulation is entered into for the following reasons:

1. In light of this Court's Order granting the Motion to Dismiss Counts 2 and 3 of the Indictment, the parties request additional time to complete their investigation regarding the remaining counts. The additional time requested would allow for a resetting in this matter.

1           2.     The defendants are not incarcerated and do not object to the continuance.

2           3.     Additionally, denial of this request for continuance could result in a  
3 miscarriage of justice.

4           4.     The additional time requested by this Stipulation is excludable in computing  
5 the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18,  
6 United States Code, Section 3161(h)(1)(D) and Title 18, United States Code, Section 3161(h)(7)(A),  
7 considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and  
8 3161(h)(7)(B)(iv). In the alternative, the continuance sought herein is also excludable under the  
9 Speedy Trial Act, Title 18, United States Code, 3161(h)(1)(D) because the “period of delay resulting  
10 from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or  
11 other prompt disposition of, such motion[s]” shall be excluded in computing the time within which  
12 trial must commence.

13           5.     This is the ninth request for continuance sought.

14           DATED this 23rd day of July, 2013.

15           RENE L. VALLADARES  
16           Federal Public Defender

15           DANIEL G. BOGDEN  
16           United States Attorney

17           */s/ Shari L. Kaufman*

18           By: SHARI L. KAUFMAN  
19           Assistant Federal Public Defender  
20           Counsel for Andre Nestor

17           */s/ Daniel Schiess*

18           By: DANIEL SCHIESS  
19           Assistant United States Attorney  
20           Counsel for Plaintiff

21           */s/ Andrew Leavitt*

22           By: ANDREW LEAVITT, Esq.  
23           Counsel for John Kane

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

2:11-cr-022-MMD-GWF

Plaintiff,

## FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

VS.

JOHN KANE and  
ANDRE NESTOR,

## Defendants.

## **FINDINGS OF FACT**

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. In light of this Court's Order granting the Motion to Dismiss Counts 2 and 3 of the Indictment, the parties request additional time to complete their investigation regarding the remaining counts. The additional time requested would allow for a resetting in this matter.

2. The defendants are not incarcerated and do not object to the continuance.

3. Additionally, denial of this request for continuance could result in a miscarriage of justice.

4. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(1)(D) and Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv). In the alternative, the continuance sought herein is also excludable under the Speedy Trial Act, Title 18, United States Code, 3161(h)(1)(D) because the “period of delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion[s]” shall be excluded in computing the time within which trial must commence.

5. This is the ninth request for continuance sought.

For all of the above-stated reasons, the ends of justice would best be served by a continuance sought.

## **CONCLUSIONS OF LAW**

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, 3161(h)(7) and Title 18 United States Code, §§ 3161 (h)(7)(A), when the considering the facts under Title 18, United States Code, §§ 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

In the alternative, the continuance sought herein is also excludable under the Speedy Trial Act, Title 18, United States Code, 3161(h)(1)(D) because the “period of delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion[s]” shall be excluded in computing the time within which trial must commence.

## ORDER

IT IS THEREFORE ORDERED that trial briefs, proposed voir dire questions, proposed jury instructions, and a list of the Government's prospective witnesses must be submitted to the Court by the 27<sup>th</sup> day of November, 2013, by the hour of 4:00 p.m.

IT IS FURTHER ORDERED that calendar call currently scheduled for August 12, 2013 at the hour of 1:00 p.m., be vacated and continued to October 28, 2013 at the hour of at the hour of 9:00 a.m.; and the trial currently scheduled for August 20, 2013 at the hour of 9:00 a.m., be vacated and continued to December 3, 2013 at the hour of 9:00 a.m.

DATED 23rd day of July, 2013.



UNITED STATES DISTRICT JUDGE